

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JESSE COLLINS, CV F 05-00541 OWW DLB HC

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Petitioner,

**ORDER GRANTING PETITIONER'S THIRTY
DAYS TO SUBMIT ANY AND ALL
FURTHER EVIDENCE IN SUPPORT OF HIS
CLAIM FOR EQUITABLE TOLLING**

DERRAL ADAMS, Warden,

Respondent.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Now pending before the Court is Respondent's motion to dismiss the instant petition as time barred by the one-year statute of limitations. 28 U.S.C. § 2244(d)(1) and (2). Petitioner filed an opposition on February 22, 2006. After the grant of an extension of time, Respondent filed a reply on March 30, 2006.

In his opposition, Petitioner states that “if any further documents are required and is needed to prove said claims [of equitable tolling based on his mental condition], petitioner respectfully requests, upon the court approval, time to obtain said documents.” (Opposition, at 5.)

Because Petitioner bears the burden of demonstrating entitlement to equitable tolling based on his mental condition, Petitioner will be given time to obtain and submit to this Court any and all further support for his claim. The Court is unsure of what this documentation may

1 be, but to the extent such further evidence in support of his claim exists, Petitioner must present
2 it to the Court for review. Thus, to ensure that this Court has a fully developed record before
3 issuing a ruling on Petitioner's entitlement to equitable tolling, the Court will grant Petitioner
4 thirty days to submit further evidence in support of his claim for equitable tolling based on his
5 mental health condition.¹ Based on the foregoing, Petitioner shall submit any further evidence he
6 may have in support of his claim for equitable tolling, within thirty (30) days from the date of
7 service of this order.²

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9 IT IS SO ORDERED.

10 Dated: April 6, 2006
11 3b142a

12 /s/ **Dennis L. Beck**
13 UNITED STATES MAGISTRATE JUDGE
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26 ¹ Petitioner is advised that he not need, and should not, resubmit any evidence that has already been
27 submitted with his opposition to Respondent's motion. Petitioner should submit any further evidence he feels has
any bearing on his claim for equitable tolling.

28 ² If Petitioner does not have further evidence to submit to this Court, he need file nothing in response to this
order and the Court will issue its ruling on the evidence already submitted to the Court.